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Palmer
NATIONAL POPULAR GOVERNMENT LEAGUE
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Washington, D. C.

Bulletin No. 89
November 17, 1923

By Judson King,
Director

AND NOW IT HAS BEEN TOLD

THE LIBRARY OF THE
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UNIVERSITY OF MARYLAND

- One A "canoeful" of dangerous reds.
- Two Four pistols and some stage muskets used in amateur theatricals.
- Three Four iron balls "which must have dissolved in water".
- Four "Revolutionary documents" which never materialized.
- Five Some actual bomb outrages, the origin of which - whether by real conspirators, individual fanatics, or private detective agencies - never has been discovered by the Department of Justice, and is a moot question to this day.

Unbelievable? Unreasonable? Yet in the final assay of official facts, given in Louis F. Post's new book*, these are the tangible "makings" out of which Attorney General Palmer's Red Crusade which shook the nation three years ago, was constructed.

On these pitiful foundations was built the gigantic "conspiracy to overthrow the government of the United States by force and violence" solemnly and officially announced by the responsible head of the Department of Justice, press-agented by the Department itself, which Mr. Post deservedly names "a stupendous and cruel hoax", but which was believed in by millions of well meaning American citizens.

Moorfield Storey of Boston, distinguished lawyer and former President of the American Bar Association, has written an Introduction to the book, from which I quote:-

"The men responsible for these arrests filled the newspapers with livid accounts of what the "Reds" had done and were planning. - - - The statements were false and misleading. There was no conspiracy to overthrow this government and no evidence was ever produced which excused the action of the government. - - - The book is a very important contribution to the history of this country and a warning to us all."

However much these deductions may shake the complacency of my readers, I bid them sit tight in their mental boats and await the evidence.

MR. POST For Mr. Post knows the facts better than any other living man save certain
KNOWS officials of the Department of Justice, and they won't tell. Neither
Mr. Post's integrity, his intelligence, nor his courage can be questioned.
He knows not only the facts but of still greater importance, the significance of the
facts - a thing which neither Mr. Palmer, his subordinates, nor the vast majority of
politicians in Congress have given evidence of even yet comprehending.

*THE DEPORTATIONS DELIRIUM OF NINETEEN-TWENTY, A Personal Narrative of an Official
Historical Experience. By Louis F. Post. Published by Charles H. Kerr & Co.,
Chicago. November 1923.

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NATIONAL FORMULARY COMPANY
837 Broadway Building
Washington, D. C.

Serial No. 89
November 17, 1933

By Thomas H. Jones
Director

THE NEW YORK TIMES

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For several months in 1920, during the illness of the Secretary of Labor, William B. Wilson, the administration of the deportation statutes fell upon Mr. Post who was then Assistant Secretary of Labor. The Buford deportees of 1919 were passed upon by Solicitor Abercrombie, under direction of Immigration Commissioner Caminetti, with the exception of the cases of Emma Goldman, Alexander Berkman, and possibly a few others, which were decided by Mr. Post himself, owing to the temporary absence of Mr. Abercrombie. From March to May, Mr. Post assumed full charge and in that time examined some 3,000 warrants of arrest, 700 of which were ordered deported and 2,300 cancelled.

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LAWYER known that Mr. Post is an able constitutional lawyer. He practiced at the New York Bar before he turned to journalism and became nationally famous as Editor of THE PUBLIC at Chicago.

Having had somewhat to do in exposing the illegal acts of the Department of Justice in these raids, as members of this League will recall. I picked up the advance proof sheets of Mr. Post's book with the idea that a swift once-over would be sufficient. Quickly I found myself mistaken. Instead of "skimming", I was forced to read, and carefully. The sheer human interest of the narrative held me, even as to familiar incidents.

INSIDE But there were new facts, inside facts, fresh information, thrilling as an
FACTS adventure story, now made public for the first time. Finally I gave up,
TOLD turned back and read the story from beginning to end, as I warn you you will be forced to do.

Yet the restraint of the book is remarkable. It is evident that in it the author is not seeking to justify his official acts, but to vindicate American principles of law and justice, and that he is impelled by the same high sense of duty which led him to head his ship straight into the wind when the storm of prejudice, falsehood, vituperation and threatened impeachment were breaking over his head.

Here is a quotation from his journal, written on the threshold of 1920:

"At present there are signs of an overthrow of our government as a free government. It is going on under cover of a vigorous 'drive' against anarchists, an anarchist being almost anybody who objects to a government of the people by the Tories and for the financial interests."

THE I shall not attempt to "review" this notable book. It is brief enough for
SCOPE any intelligent person to read for himself in a short time - and I assume that only such will attempt it. It opens with the sailing of the Buford just before Christmas, 1919, and ends with the failure of the attempt to white-wash Palmer by the Judiciary Committee of the United States three years later.

Its succinct chapters summarize the story of Palmer's coast to coast red raids, with their horrible atrocities; they expound the law in a lucid manner which a layman can understand; they show the incredible paucity of the evidence on which that

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nightmare of terrorism was built; they expose the pitiful exploits of Congressmen seeking political capital out of the prevailing madness. And from it all emerges the spectacle of a department of this government, whose business it is to administer the law, engaged in promoting false and sensational propaganda in violation of law, and officially flouting the Constitution and established processes of justice.

Lawyers and judges especially should be interested.

AN HISTORICAL PARALLEL

Above all it evinces the incredible gullibility of the American people. The most impressive question arising in one's mind on laying the book aside, is, "How COULD it all have happened?"

How was it possible that the educated America of 1920 could repeat the follies of the New England witchcraft delirium of 1680, of which it is written that "educated men like Increase Mather, President of Harvard, firmly believed in it" and "special courts were appointed by Governor Phipps for the trial of witches".

Humiliating as it may seem, this is exactly what happened. And the official evidence marshalled by Mr. Post quickly prove it. The fact is that the American form of government was in about as much danger of overthrow by "dangerous anarchists" as was the Christian religion endangered by the alleged witches of Salem. Furthermore, the methods of Palmer's men in proving guilt paralleled the procedure of Cotton Mather's divines. Cotton used to tie a "suspect" hand and foot and throw her into the river. If she did not come up, she was innocent. If she did, she was guilty and was sentenced to be hanged.

Palmer utterly ignored the principle so lucidly stated in 1920 by former Justice Charles Evans Hughes, now Secretary of State - "It is the essence of the institutions of liberty that it be recognized that guilt is personal and cannot be attributed to the holding of opinion, or to mere intent in the absence of overt acts."

The above is not mere wild and random statement. It will be recalled that Mr. Palmer went before the Appropriations Committee of the House and secured appropriations of around \$3,000,000 on the grounds that there was an organized conspiracy to overthrow the government. The country was informed that there were 60,000 dangerous reds, the inference being that they were of the bomb-throwing variety; that there were from 100,000 to 300,000 engaged in Communist propaganda, that he had a card catalogue of many thousands of unsafe liberals and radicals who harbored seditious and pacifist opinions in addition to these; and beyond all this there was "a condition of revolutionary intent of sufficiently widespread character to merit the attention of Congress."

All this was built up and magnified both before and after the red raids, in which it is estimated that over 6,000 persons were arrested. The dramatic character of the raids and the lurid language used in reference to the suspected reds threw the country into a delirium of fear which for a time led it to acquiesce in the abandonment of legal safeguards of personal liberty. The Report of the Twelve Lawyers issued by this League was the first opposition of a character to bring the country to its senses. Radical protest had merely been oil on flames.

Let us take a look at the tangible basis for this "jamboree of head-hunting", as it was properly termed by an experienced and wise official of this government.

FOUR PISTOLS AND SOME STAGE MUSKETS As to firearms discovered, Mr. Post says: "The evidence is convincing that with the exception of a few ordinary pistols taken from the pockets or trunks or the suitcases of individuals whose possession of them signified nothing lawless, the only firearms seized in the January raids consisted of a stack of guns used for amateur theatricals which were found among the stage 'properties' of an amateur dramatic society. A careful examination of all the files in the Department of Labor relating to these raids disclosed, besides these stage property guns, only four firearms. Might not as many be found upon a search of any 3,000 persons rounded up at any time and anywhere for anything or nothing? At no place in all that nation-wide raiding of January 1920, were any weapons or explosives discovered from which an inference of projected crime, private or political, could be drawn."

FOUR FAMOUS "BOMBS" Again - "One of the widely published inspirations told of a discovery by raiders of four bombs in a Communist Party meeting place. Those bombs were the only ones discovered in all the January raids. Nor was there anything to indicate that even they were bombs except the fact that they were iron balls. Taken to the U. S. Attorney's office, those iron balls, deposited for safety in a pail of water, were exhibited suggestively to local reporters. Their seizure was reported of course to the Department of Justice at Washington whence exciting news of a bomb discovery was sent over the country. Those four iron balls must have melted in the pail of water for they were never heard of again. The Department of Justice detective in charge forgot this highly sensational feature of the raids when he testified before a Senate subcommittee a year later. The Attorney General also in his official report said nothing of bombs, but limited his department's credit for seizures in the January raids to 'large quantities of revolutionary documents' and 'many firearms'."

WHAT ARE "REVOLUTIONARY DOCUMENTS?" "If the documents were dangerous, the term 'revolutionary' was not sufficiently descriptive. Americans ought to be told what is meant by 'revolutionary' as applied to documents before being asked to condemn their publishers. Is not the American Declaration of Independence a 'revolutionary' document? Documents containing secret instructions in promotion of an underground conspiracy would be revolutionary in a sense that American ideals condemn; but if among the documents seized in the January raids any were secret, they are secret yet - even as to their existence."

CONSPIRATORS "Nearly all the conspirators," says Mr. Post, "were wage-workers, useful in industry, good-natured in their dispositions, unconscious of having given offense. Some were technically within the proscriptions of the law because they had joined a proscribed organization about the lawfulness of which, persons of more sophistication than I disagreed. Most of them did not know its objectionable character. Many were 'automatic' members, that is, transferred in a body from an unlawful group without guilty knowledge on their own part and often without any clear consciousness of the transfer - sometimes in total ignorance of the fact. Others were not proved to be even nominal members. Very few if any were the kind of aliens that Congress could in all reasonable probability have intended to

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comprehend in its anti-alien legislation." Yet these were the men whom Palmer stigmatized as "moral rats".

TOLSTOI Why was it then that Assistant Secretary Post himself deported some 700
ALSO! persons, if it was true that there was only a "caneeful" of "dangerous
reds" in this country? The answer is that Mr. Post was administering law,
and the U. S. immigration statutes make no distinction between an "anarchist of the
deed", who may be an actual bomb-thrower, and the "philosophical anarchist" holding
theoretical opinions upon government and believing in non-resistance. Every effort
by intelligent statesmen to fix that distinction in the law at the time of its
passage, failed. Under this law Mr. Post would have been compelled to deport the
great Tolstoi back to Russia had he been living in this country in 1920 and arrested
by Palmer - as he probably would have been - because this world-famous author and
and humanist, this liberal follower of Christ, was a philosophical anarchist as was
Mark Twain. Again, had Tolstoi joined the Union of Russian Workers as a matter of
mere comradeship, without carefully scrutinizing its constitution, as hundreds of
Russians did, he would have been deported because the fundamental law of this organ-
ization had a clause which countenanced the use of physical force in revolution, and
the law made it mandatory upon the Secretary of Labor to deport any man whose name
appeared on its membership roll.

Hence in faithfully administering the law, Mr. Post was compelled to deport
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they were members of this proscribed society.

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Mr. Palmer's agents that they were guilty of unlawful deeds or held unlawful opinions
or belonged to an unlawful organization. "It came to be generally understood,"
says the author, "that all of the men deported upon the Buford had been adjudged
guilty of murderous activities. As a matter of fact they were mostly common work-
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THE LAW Such was the law and such were the facts. The public, including even
AND most lawyers and judges, knew nothing of the law and were deceived as to
THE FACTS the facts. Of especial importance is it, to remember that the Federal
Constitution and laws, upheld by numberless decisions, guarantees to
every alien and visitor within our borders the same protection as to American citi-
zens in respect to civil liberties. In disregarding them, Palmer violated his oath
of office; Post respected his.

The precedent of ignoring the rights of aliens led quickly to ignoring the rights
of citizens. Palmer's official lawlessness was duplicated in many states and cities
and is still going forward though in a less degree. The very existence of the
American Civil Liberties Union is proof of the wide-spread flouting of fundamental
liberties and judicial processes which his example engendered. It is a matter of
serious import to an American who values liberty and knows from history the insid-
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THE LAW AND THE FACTS Such was the law and such were the facts. The public, including every most lawyer and judge, knew nothing of the law and were deceived as to the facts. Of especial importance is it to remember that the Federal Constitution and laws, upheld by numerous decisions, guarantee to every alien and visitor within our borders the same protection as to American citizens in respect to civil liberties. In discriminating them, Palmer violated his oath of office; Post respected his.

The precedent of ignoring the rights of aliens and priority to American citizens. Palmer's official lawlessness was duplicated in many states and cities and is still going forward though in a less degree. The very existence of the American Civil Liberties Union is proof of the wide-spread flouting of fundamental liberties and judicial processes which his example engendered. It is a matter of serious import to an American who values liberty and knows from history the kind of manner in which republics are destroyed. As Senator Walsh truly said, "If in such times the Constitution is not a shield, the anarchy which statesmen and jurists have heaped upon it are the shield."

WHAT HAPPENED ON THE BUFORD Mr. Post gives us for the first time the correct statement of what happened on the voyage of the Buford, and the story is full of dramatic interest. Once only was there protest from these "dangerous reds". They complained of getting bad bread to eat. Inspector Berkshire inspected and found the charge correct. Alexander Berkman, spokesman of the reds, offered to furnish from their own ranks, two bakers, to serve without pay, to take the places of the incompetent bakers of the ship's crew. The offer was accepted, the reds did the baking, and there was peace on that point all the rest of the journey. Probably even the captain, the crew, the guard of soldiers and the Inspector himself, as well as the prisoners, enjoyed the change.

Here is another touch. This vessel, belonging to the United States Navy, was piloted from the Kiel Canal through the dangerous mine-infested roads of the Baltic by a German pilot who used for his guidance a German war mine map.

DEPORTATION OF THE RUSSIAN AMBASSADOR In Chapter 34 is revealed for the first time an interesting and amusing story of how the Department of Labor cleverly frustrated the determined attempt of Palmer to stage a sensational and humiliating arrest of Ludwig C. A. K. Martens, sent as Ambassador from Russia to succeed Bakmetieff. A public arrest was planned, with moving picture cameras and newspaper men ready to thrill the country once again. Learning this, Post peremptorily recalled the warrant from Palmer, requested Martens to appear at his office, arrested him himself, and promptly paroled him pending examination. After Secretary Wilson had decided that Martens, because of his membership in Russian organizations, was technically within the deportation law, Martens was permitted, at his own request, to return to Russia at his own expense, unmolested.

Upon his return home, Secretary Wilson cancelled the arrest warrant in order that, should the Russian government, when diplomatic relations were re-established, decide to send Martens again as its ambassador, no nasty entanglements would ensue by reason of his arrest for felony when he reached this country. It is clear that the Department of Labor thus saved the United States from further silliness in the eyes of the world on the part of the Departments of Justice and State. "If", says Mr. Post, "he had not been an official of the unrecognized government of Russia, he could not have been deported under any law of ours".

LLOYD GEORGE DIFFERENT At that time the British government under the premiership of Honorable Lloyd George - who happens to be in Washington as I write - was, as Mr. Post notes, "according polite treatment to the Russian Ambassador to that country while we were being asked to treat the one to ours with indignities."

A PERSONAL ESTIMATE OF MR. MARTENS I met Mr. Martens while here and found him a refined, highly educated gentleman of quiet demeanor. He is an eminent engineer and a capable executive. The humiliation he must have suffered at the hands of A. Mitchell Palmer and his aids - who by cultural comparison are as country school bullies to a highly trained scientist - can well be imagined. Perhaps he experienced the feelings of our first American minister to Russia who was forced to cool his heels in St. Petersburg for two years before the then czar would "recognize" this "revolutionary republic." Educated Americans travelling in the Russia of the future will probably exhaust their vocabularies in apology with respect to Marten's treatment by the United States. I understand that business men seeking contracts and concessions in Russia are already doing so.

PALMER'S
IGNORANCE
OF LAW

Humiliating indeed are the incidents related which discover to us the Attorney General's crass ignorance of constitutional law, as well as his professional ethics which shocked even the conservative lawyers of Back Bay. Boston. Here is one choice bit:- A conference between the Departments of Labor and Justice is in progress, and Palmer is present in person, expounding the law. "Do you mean to tell me," the Attorney General exclaimed turning to Mr. Parker and speaking with disputatious emphasis, "that there is no law under which you can issue a warrant for the arrest of an alien when I certify that he is subject to deportation?" "Mr. Attorney General", Mr. Parker calmly responded, "not only is there no such law, but no such law would be constitutional if there were one."

Nor does it add to our pride in Congress to find that the Immigration Committee of the House rivalled Palmer in the extent of its misinformation and stupidity as to fundamental law. I shall never forget the school-boy aspect of the scene when the House Rules Committee was given primary instructions in the law and legal procedure by Mr. Post, when that august body was met to decide whether it was safe to proceed with his attempted impeachment. No fingers were scorched so quickly was the hot iron dropped.

THE FORCES BACK OF PALMER

Of one thing I must speak, perhaps the most significant revelation of the whole book; namely, the forces back of Palmer which egged him on, made his raids possible, and condoned his shocking illegalities and atrocities. I quote:

"Quite significant is the attention officially declared in the annual report of the Attorney General for 1920 to have been given by his 'General Intelligence Division' (secret service men), to the steel strike and coal strike of 1919 The whole 'red' crusade seems to have been saturated with 'labor spy' interests - the interests, that is, of private detective agencies which, in the secret service of masterful corporations, were engaged in generating and intensifying industrial suspicions and hatreds. It was under these influences, apparently, that the appropriations authorized by Congress 'for the detection and prosecution of crimes' exclusively, were in part diverted to the 'rounding up' of aliens, not as criminals, but as possible subjects for administrative deportation."

And again:

"When 'the communism of pelf' as President Cleveland called it, which could not thrive but for predatory property privileges, falls a victim to revolution anywhere in the world - as in France in Robespierre's day, or in Russia in ours - every opinion in hostility to property, whether righteous property or predacious property, looms up in fear-haunted minds as a social menace. These were the minds, studiously stirred by cooler ones, that caused and fostered our deportations delirium. Originating with manipulators of property interests of the predacious kind, it was spread among folk who had only prospective or possible interest in property of any kind; and out of the confusion leaped angry denunciations of social agitators, and frantic appeals to paganistic patriotism. As to agitators who happened to be aliens among us, my story tells the rest."

It is clear that while Palmer hoped his Red Raids would land him the presidency, to industrial managers it was a crusade against organized labor, and to the Reactionary forces at large, it was a buffer against progressive movements of any character. Under its cover they shouted "Bolshevism" at attempts to relieve the farmers and laborers from economic extortion just as English Tories in 1780 cried "Jacobinism" at those who advocated universal manhood suffrage.

HOW LONG I wonder if the American people would longer tolerate the refusal of
OH AMERICA? the government to extend amnesty to our political prisoners five years
after the war, if they realized that the same forces which inspired Palmer's raids on aliens, are the ones ultimately responsible for the incarceration of American citizens who were persecuted, tried and jailed, as a matter of fact, for their opinions.

The legal proceedings which sent these men to prison were farcical imitations of justice. If you doubt that statement read the findings of no less a lawyer of national standing than Senator George Wharton Pepper, conservative Pennsylvania Republican who has spent weeks on the examination of the records of the 22 Chicago I.W.W. cases and pronounced - "none is a case in which there was any conspiracy to hinder the United States, and the most there is against these men is their utterances, in and out of print, expressing opposition to the war or indifference to it - and for these expressions some of the sentences run as high as 20 years."

Of the 21 Sacramento cases, after a separate study of each case, Senator Pepper says, "The presence of these men in jail is a challenge to an American lawyer's loyalty to his profession. I went into their cases not as a Senator, but as an American citizen and a lawyer. No lawyer can afford to be indifferent to cases effecting human liberty, the maintenance of which must depend on the regularity of our criminal procedure."

Federal Judge Pollock who tried the Wichita cases on September 14, 1923, wrote the Attorney General recommending "unconditional clemency" for those remaining in prison, with Fred Robertson, U.S. Attorney, who prosecuted the case, fully concurring.

It is not a little humiliating to a real American that the U.S. government should be more monarchistic and cruel than the nations of Europe, all of which have declared amnesty and freed political prisoners. Have the penal ethics of the Dark Ages become reincarnated in free America? Yet this people are, by their deadly indifference, justifying the cynical sneer of the Frenchman, who, when proudly shown the Statue of Liberty by a patriotic American, sardonically replied, "Yes, we too erect statues to our illustrious dead." (A story related in Mr. Post's book.)

SOME MEN KEPT THEIR HEADS CLEAR

It is encouraging to note however, that when the Deportations Delirium was at its height, a goodly number of editors perceived the great significance of the stand Mr. Post was taking in support of justice, and spoke out in his defense. Also that a committee of 12 distinguished lawyers made a report rebuking Palmer for his disregard of law, justice and humanity. This "Report of the Twelve Lawyers", which incidentally was promoted and published by the National Popular Government League, is characterized by Mr. Post as "the most important in character and effect" of the "extraordinary episodes of the deportations delirium."

Later came the decision of Federal Judge George W. Anderson of Boston, in the Collyer case, which further enlightened the country as to the atrocious character of the Red Raids and the danger to constitutional liberty from the flagrant practices of the Department of Justice in this regard. It was a brave and enlightened decision and produced a profound effect.

Of dramatic interest is the story of how Mr. E. T. Gundlach, conservative Chicago business man, out of a clear sky, volunteered to bear the legal expenses of Mr. Post's defense, should the threatened impeachment materialize - and of the offer of free legal service by Jackson H. Ralston, one of Washington's ablest constitutional lawyers.

WHY THIS SILENCE? No public officer of our generation has been put to such an acid test of loyalty to the fundamental principles of American liberty as was the Assistant Secretary of Labor of 1920. He met the emergency. As time goes on that record will shine clearly in a mass of forgotten things that now loom large. Some day we may expect this record to be intelligently and approvingly discussed in our schools of political science, and even our Bar Associations.

It will then be noted that at a time when, what ex-President Taft in his veto of the Arizona Constitution termed "gusts of popular passion" were sweeping away "constitutional safeguards of individual liberty", Louis Post stood firm, examined the facts and administered the law, unswerved even by his own disapproval of some of the laws he was interpreting. He will be cited as a classical example of judicial poise and courage.

There will also be noted by the historians of that time, the astonishing fact that Mr. Post's admirable conduct elicited no commendation from the American Bar Association, or those eminent jurists and writers who were the then most strenuous defenders of "the independence of the judiciary". They will wonder why Mr. Post's fearless adherence to "established judicial processes" brought no praise from these authorities who desired to remove the judiciary as far as possible from the influence of the mob, and so opposed - a principle Mr. Post, curiously enough, approved - the Recall of Judges. Perhaps it was the wrong mob that was seeking to "subvert established institutions". Was it because they wore white shirts instead of blue overalls -? But I forget myself - there are no classes in America.

WHY BOTHER NOW?

But why bother about the whole thing since Palmer is politically dead and gone? All true as to Palmer personally, but Palmerism is not dead. 96 state "politicals" are still in state prisons, American citizens, there for their opinions in spite of all quibbling to the contrary. Tolerance has not returned. All over the country men are still being arrested and jailed illegally. A summary of the concrete record would shock my readers. The very existence of the Civil Liberties Union and the fights it is putting up for free speech, press and assemblage in West Virginia, Pennsylvania and other states, is high proof that OFFICIAL FLOUTING OF CONSTITUTIONAL LIBERTIES WHICH PALMER, MORE THAN ANY OTHER MAN STARTED ON ITS EVIL CAREER, IS STILL POTENT! That is why lawyers like Moorfield Storey and Senator Pepper are alarmed and take a hand. It is why Mr. Post's book is important to any man who knows how Privilege works. I predict a revival in the next Congress, of the attempt to pass sedition laws.

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